

Union Calendar No. 353

115TH CONGRESS
1ST SESSION

H. R. 3168

[Report No. 115–478, Part I]

To amend title XVIII of the Social Security Act to provide continued access to specialized Medicare Advantage plans for special needs individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2017

Mr. TIBERI (for himself and Mr. LEVIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 21, 2017

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

DECEMBER 21, 2017

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 6, 2017]

A BILL

To amend title XVIII of the Social Security Act to provide continued access to specialized Medicare Advantage plans for special needs individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Special Needs Plans Re-*
5 *authorization Act of 2017” or the “SNP Reauthorization*
6 *Act of 2017”.*

7 **SEC. 2. SPECIALIZED MEDICARE ADVANTAGE PLANS FOR**
8 **SPECIAL NEEDS INDIVIDUALS.**

9 (a) *EXTENSION.—Section 1859(f)(1) of the Social Se-*
10 *curity Act (42 U.S.C. 1395w–28(f)(1)) is amended—*
11 (1) *by striking “and for periods before January*
12 *1, 2019”; and*

13 (2) *by adding at the end the following new sen-*
14 *tence: “In the case of a specialized MA plan for spe-*
15 *cial needs individuals described in clause (ii) or (iii)*
16 *of subsection (b)(6)(B), the previous sentence shall*
17 *apply for periods before January 1, 2024.”.*

18 (b) *INCREASED INTEGRATION OF DUAL SNPs.—*

19 (1) *IN GENERAL.—Section 1859(f) of the Social*
20 *Security Act (42 U.S.C. 1395w–28(f)) is amended—*
21 (A) *in paragraph (3), by adding at the end*
22 *the following new subparagraph:*

23 “(F) *The plan meets the requirements ap-*
24 *plicable under paragraph (8).”; and*

(B) by adding at the end the following new paragraph:

3 “(8) INCREASED INTEGRATION OF DUAL SNPs.—

“(A) DESIGNATED CONTACT.—The Secretary, acting through the Federal Coordinated Health Care Office established under section 2602 of Public Law 111–148, shall serve as a dedicated point of contact for States to address misalignments that arise with the integration of specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii) under this paragraph and, consistent with such role, shall—

14 “(i) establish a uniform process for dis-
15 seminating to State Medicaid agencies in-
16 formation under this title impacting con-
17 tracts between such agencies and such plans
18 under this subsection; and

“(ii) establish basic resources for States interested in exploring such plans as a platform for integration, such as a model contract or other tools to achieve those goals.

23 “(B) UNIFIED GRIEVANCES AND APPEALS
24 PROCESS.—

1 “(i) *IN GENERAL.*—Not later than
2 April 1, 2020, the Secretary shall establish
3 procedures, to the extent feasible as deter-
4 mined by the Secretary, unifying grievances
5 and appeals procedures under sections
6 1852(f), 1852(g), 1902(a)(3), 1902(a)(5),
7 and 1932(b)(4) for items and services pro-
8 vided by specialized MA plans for special
9 needs individuals described in subsection
10 (b)(6)(B)(ii) under this title and title XIX.
11 The Secretary shall solicit comment in de-
12 veloping such procedures from States, plans,
13 beneficiaries and their representatives, and
14 other relevant stakeholders. With respect to
15 items and services described in the previous
16 sentence, appeals procedures established
17 under this clause shall apply in place of
18 otherwise applicable appeals procedures.

19 “(ii) *PROCEDURES.*—The procedures
20 established under clause (i) shall be in-
21 cluded in the plan contract under para-
22 graph (3)(D) and shall—

23 “(I) adopt the provisions for the
24 enrollee that are most protective for the
25 enrollee and, to the extent feasible as

1 *determined by the Secretary, are compatible with unified timeframes and
2 consolidated access to external review
3 under an integrated process;*

5 “*(II) take into account differences
6 in State plans under title XIX to the
7 extent necessary;*

8 “*(III) be easily navigable by an
9 enrollee; and*

10 “*(IV) include the elements de-
11 scribed in clause (iii), as applicable.*

12 “(iii) *ELEMENTS DESCRIBED.*—Both
13 *unified appeals and unified grievance pro-
14 cedures shall include, as applicable, the fol-
15 lowing elements described in this clause:*

16 “*(I) Single written notification of
17 all applicable grievances and appeal
18 rights under this title and title XIX.
19 For purposes of this subparagraph, the
20 Secretary may waive the requirements
21 under section 1852(g)(1)(B) when the
22 specialized MA plan covers items or
23 services under this part or under title
24 XIX.*

1 “(II) Single pathways for resolu-
2 tion of any grievance or appeal related
3 to a particular item or service pro-
4 vided by specialized MA plans for spe-
5 cial needs individuals described in sub-
6 section (b)(6)(B)(ii) under this title
7 and title XIX.

8 “(III) Notices written in plain
9 language and available in a language
10 and format that is accessible to the en-
11 rollee, including in non-English lan-
12 guages that are prevalent in the service
13 area of the specialized MA plan.

14 “(IV) Unified timeframes for
15 grievances and appeals processes, such
16 as an individual’s filing of a grievance
17 or appeal, a plan’s acknowledgment
18 and resolution of a grievance or ap-
19 peal, and notification of decisions with
20 respect to a grievance or appeal.

21 “(V) Requirements for how the
22 plan must process, track, and resolve
23 grievances and appeals, to ensure bene-
24 ficiaries are notified on a timely basis
25 of decisions that are made throughout

1 *the grievance or appeals process and
2 are able to easily determine the status
3 of a grievance or appeal.*

4 “(iv) *CONTINUATION OF BENEFITS
5 PENDING APPEAL.*—*The unified procedures
6 under clause (i) shall, with respect to all
7 benefits under parts A and B and title XIX
8 subject to appeal under such procedures, in-
9 incorporate provisions under current law and
10 implementing regulations that provide con-
11 tinuation of benefits pending appeal under
12 this title and title XIX.*

13 “(C) *REQUIREMENT FOR UNIFIED GRIEV-
14 ANCES AND APPEALS.*—*For 2022 and subsequent
15 years, the contract of a specialized MA plan for
16 special needs individuals described in subsection
17 (b)(6)(B)(ii) with a State Medicaid agency
18 under paragraph (3)(D) shall require the use of
19 unified grievances and appeals procedures as de-
20 scribed in subparagraph (B).*

21 “(D) *REQUIREMENTS FOR FULL INTEGRA-
22 TION FOR CERTAIN DUAL SNPS.*—

23 “(i) *REQUIREMENT.*—*For 2021 and
24 subsequent years, a specialized MA plan for
25 special needs individuals described in sub-*

1 *section (b)(6)(B)(ii) shall meet one or more*
2 *of the following requirements for integration*
3 *of benefits under this title and title XIX:*

4 “(I) Meet the requirements of a
5 fully integrated plan described in sec-
6 tion 1853(a)(1)(B)(iv)(II) (other than
7 the requirement that the plan have
8 similar average levels of frailty, as de-
9 termined by the Secretary, as the
10 PACE program).

11 “(II) Enter into a capitated con-
12 tract with the State Medicaid agency
13 to provide long-term services and sup-
14 ports or behavioral health services, or
15 both.

16 “(III) To the extent the State does
17 not allow for or require such a special-
18 ized MA plan to enter into a capitated
19 contract described in subclause (II),
20 enter into another type of integration
21 arrangement, as determined appro-
22 priate by the Secretary after consulta-
23 tion with stakeholders, such as by—

24 “(aa) entering into a con-
25 tract with the State that requires

17 “(ii) SANCTIONS.—For 2021 and sub-
18 sequent years, if the Secretary determines
19 that a specialized MA plan fails to comply
20 with clause (i), the Secretary may provide
21 for the application against the Medicare
22 Advantage organization offering the plan
23 any of the remedies described in section
24 1857(g)(2).”.

1 (2) CONFORMING AMENDMENT TO RESPONSIBIL-
2 ITIES OF FEDERAL COORDINATED HEALTH CARE OF-
3 FICE.—Section 2602(d) of Public Law 111–148 (42
4 U.S.C. 1315b(d)) is amended by adding at the end the
5 following new paragraphs:

6 “(6) To act as a designated contact for States
7 under subsection (f)(8)(A) of section 1859 of the So-
8 cial Security Act (42 U.S.C. 1395w–28) with respect
9 to the integration of specialized MA plans for special
10 needs individuals described in subsection (b)(6)(B)(ii)
11 of such section.

12 “(7) To be responsible for developing regulations
13 and guidance related to the implementation of a uni-
14 fied grievance and appeals process as described in
15 subparagraphs (B) and (C) of section 1859(f)(8) of
16 the Social Security Act (42 U.S.C. 1395w–28(f)(8)).

17 “(8) To be responsible for developing regulations
18 and guidance related to the integration or alignment
19 of policy and oversight under the Medicare program
20 under title XVIII of such Act and Medicaid program
21 under title XIX of such Act regarding specialized MA
22 plans for special needs individuals described in sub-
23 section (b)(6)(B)(ii) of such section 1859.”.

24 (c) IMPROVEMENTS TO SEVERE OR DISABLING CHRON-
25 IC CONDITION SNPs.—

1 (1) CARE MANAGEMENT REQUIREMENTS.—Section
2 1859(f)(5) of the Social Security Act (42 U.S.C.
3 1395w–28(f)(5)) is amended—

4 (A) by redesignating subparagraphs (A)
5 and (B) as clauses (i) and (ii), respectively, and
6 indenting appropriately;

7 (B) in clause (ii), as redesignated by sub-
8 paragraph (A), by redesignating clauses (i)
9 through (iii) as subclauses (I) through (III), re-
10 spectively, and indenting appropriately;

11 (C) by striking “ALL SNPS.—The require-
12 ments” and inserting “ALL SNPS.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (B), the requirements”; and

15 (D) by adding at the end the following new
16 subparagraph:

17 “(B) IMPROVEMENTS TO CARE MANAGE-
18 MENT REQUIREMENTS FOR SEVERE OR DIS-
19 ABLING CHRONIC CONDITION SNPS.—For 2020
20 and subsequent years, in the case of a specialized
21 MA plan for special needs individuals described
22 in subsection (b)(6)(B)(iii), the requirements de-
23 scribed in this paragraph include the following:

24 “(i) The interdisciplinary team under
25 subparagraph (A)(ii)(III) includes a team

1 *of providers with demonstrated expertise,*
2 *including training in an applicable spe-*
3 *cialty, in treating individuals similar to the*
4 *targeted population of the plan.*

5 “*(ii) Requirements developed by the*
6 *Secretary to provide face-to-face encounters*
7 *with individuals enrolled in the plan not*
8 *less frequently than on an annual basis.*

9 “*(iii) As part of the model of care*
10 *under clause (i) of subparagraph (A), the*
11 *results of the initial assessment and annual*
12 *reassessment under clause (ii)(I) of such*
13 *subparagraph of each individual enrolled in*
14 *the plan are addressed in the individual’s*
15 *individualized care plan under clause*
16 *(ii)(II) of such subparagraph.*

17 “*(iv) As part of the annual evaluation*
18 *and approval of such model of care, the Sec-*
19 *retary shall take into account whether the*
20 *plan fulfilled the previous year’s goals (as*
21 *required under the model of care).*

22 “*(v) The Secretary shall establish a*
23 *minimum benchmark for each element of the*
24 *model of care of a plan. The Secretary shall*
25 *only approve a plan’s model of care under*

1 *this paragraph if each element of the model*
2 *of care meets the minimum benchmark ap-*
3 *plicable under the preceding sentence.”.*

4 **(2) REVISIONS TO THE DEFINITION OF A SEVERE**
5 **OR DISABLING CHRONIC CONDITIONS SPECIALIZED**
6 **NEEDS INDIVIDUAL.—**

7 (A) IN GENERAL.—Section
8 1859(b)(6)(B)(iii) of the Social Security Act (42
9 U.S.C. 1395w–28(b)(6)(B)(iii)) is amended—

10 (i) by striking “who have” and inserting
11 ing “who—

12 “(I) before January 1, 2022,
13 have”;

14 (ii) in subclause (I), as added by
15 clause (i), by striking the period at the end
16 and inserting “; and”; and

17 (iii) by adding at the end the following
18 new subclause:

19 “(II) on or after January 1, 2022,
20 have one or more comorbid and medi-
21 cally complex chronic conditions that
22 is life threatening or significantly lim-
23 its overall health or function, have a
24 high risk of hospitalization or other
25 adverse health outcomes, and require

1 *intensive care coordination and that is*
2 *listed under subsection (f)(9)(A).*”.

3 (B) *PANEL OF CLINICAL ADVISORS.*—Section
4 1859(f) of the Social Security Act (42
5 U.S.C. 1395w–28(f)), as amended by subsection
6 (b), is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(9) *LIST OF CONDITIONS FOR CLARIFICATION OF*
9 *THE DEFINITION OF A SEVERE OR DISABLING CHRON-*
10 *IC CONDITIONS SPECIALIZED NEEDS INDIVIDUAL.*—

11 “(A) *IN GENERAL.*—Not later than Decem-
12 ber 31, 2020, and every 5 years thereafter, the
13 Secretary shall convene a panel of clinical advi-
14 sors to establish and update a list of conditions
15 that meet each of the following criteria:

16 “(i) *Conditions that meet the defini-*
17 *tion of a severe or disabling chronic condi-*
18 *tion under subsection (b)(6)(B)(iii) on or*
19 *after January 1, 2022.*

20 “(ii) *Conditions that require prescrip-*
21 *tion drugs, providers, and models of care*
22 *that are unique to the specific population of*
23 *enrollees in a specialized MA plan for spe-*
24 *cial needs individuals described in such sub-*
25 *section on or after such date and—*

1 “(I) as a result of such special
2 needs individuals with such a condi-
3 tion having access to and being en-
4 rolled in such a plan, as compared to
5 access to and enrollment in other Medi-
6 care Advantage plans under this part,
7 it is projected that such individuals
8 would improve health outcomes with
9 respect to such condition, that such in-
10 dividuals would have reduced overall
11 costs under this title, and that there
12 would not be any increase in expendi-
13 tures under this title for such individ-
14 uals; or

15 “(II) have a low prevalence in the
16 general population of beneficiaries
17 under this title or a disproportionately
18 high per-beneficiary cost under this
19 title.

20 “(B) GAO STUDY ON HEALTH OUTCOMES
21 OF INDIVIDUALS ENROLLED IN SPECIALIZED MA
22 PLANS.—Not later than the date that is 3 years
23 after the date of the enactment of this paragraph,
24 the Comptroller General of the United States
25 shall conduct a study and submit to Congress a

1 *report on the extent to which health outcomes*
2 *can be compared across specialized MA plans for*
3 *special needs individuals (as defined in section*
4 *1859(b)(6)) and other Medicare Advantage plans*
5 *under this part across similar populations, using*
6 *existing measures and that identifies any poten-*
7 *tial limitations where new measures may need to*
8 *be developed for such population.”.*

9 *(d) QUALITY MEASUREMENT AT THE PLAN LEVEL FOR*
10 *SNPS AND DETERMINATION OF FEASABILITY OF QUALITY*
11 *MEASUREMENT AT THE PLAN LEVEL FOR ALL MA*
12 *PLANS.—Section 1853(o) of the Social Security Act (42*
13 *U.S.C. 1395w–23(o)) is amended by adding at the end the*
14 *following new paragraphs:*

15 “(6) QUALITY MEASUREMENT AT THE PLAN
16 LEVEL FOR SNPS.—

17 “(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may require reporting
18 of data under section 1852(e) for, and apply
19 under this subsection, quality measures at the
20 plan level for specialized MA plans for special
21 needs individuals instead of at the contract level.

23 “(B) CONSIDERATIONS.—Prior to applying
24 quality measurement at the plan level under this
25 paragraph, the Secretary shall—

1 “(i) take into consideration the minimum
2 number of enrollees in a specialized
3 MA plan for special needs individuals in
4 order to determine if a statistically significant or valid measurement of quality at the
5 plan level is possible under this paragraph;

6 “(ii) if quality measures are reported
7 at the plan level, ensure that MA plans are
8 not required to provide duplicative information; and

9 “(iii) ensure that such reporting does
10 not interfere with the collection of encounter
11 data submitted by MA organizations or the
12 administration of any changes to the program under this part as a result of the collection of such data.

13 “(C) APPLICATION.—If the Secretary applies quality measurement at the plan level under this paragraph—

14 “(i) such quality measurement may include Medicare Health Outcomes Survey (HOS), Healthcare Effectiveness Data and Information Set (HEDIS), Consumer Assessment of Healthcare Providers and Sys-

1 *tems (CAHPS) measures and quality meas-*
2 *ures under part D; and*

3 “(ii) *the Secretary shall consider ap-*
4 *plying administrative actions, such as rem-*
5 *edies described in section 1857(g)(2), to the*
6 *plan level.*

7 “(7) *DETERMINATION OF FEASIBILITY OF QUAL-*
8 *ITY MEASUREMENT AT THE PLAN LEVEL FOR ALL MA*
9 *PLANS.—*

10 “(A) *DETERMINATION OF FEASIBILITY.—*
11 *The Secretary shall determine the feasibility of*
12 *requiring reporting of data under section 1852(e)*
13 *for, and applying under this subsection, quality*
14 *measures at the plan level for all MA plans*
15 *under this part.*

16 “(B) *CONSIDERATION OF CHANGE.—After*
17 *making a determination under subparagraph*
18 *(A), the Secretary shall consider requiring such*
19 *reporting and applying such quality measures at*
20 *the plan level as described in such subpara-*
21 *graph.”.*

22 ~~(e) GAO STUDY AND REPORT ON STATE-LEVEL INTE-~~
23 ~~GRATION BETWEEN DUAL SNPs AND MEDICAID.—~~

24 (1) *STUDY.—The Comptroller General of the*
25 *United States (in this paragraph referred to as the*

1 “Comptroller General”) shall conduct a study on
2 State-level integration between specialized MA plans
3 for special needs individuals described in subsection
4 (b)(6)(B)(ii) of section 1859 of the Social Security
5 Act (42 U.S.C. 1395w–28) and the Medicaid program
6 under title XIX of such Act (42 U.S.C. 1396 et seq.).
7 Such study shall include an analysis of the following:

8 (A) The characteristics of States in which
9 the State agency responsible for administering
10 the State plan under such title XIX has a con-
11 tract with such a specialized MA plan and that
12 delivers long term services and supports under
13 the State plan under such title XIX through a
14 managed care program, including the require-
15 ments under such State plan with respect to long
16 term services and supports.

17 (B) The types of such specialized MA plans,
18 which may include the following:

19 (i) A plan described in section
20 1853(a)(1)(B)(iv)(II) of such Act (42 U.S.C.
21 1395w–23(a)(1)(B)(iv)(II)).

22 (ii) A plan that meets the requirements
23 described in subsection (f)(3)(D) of such sec-
24 tion 1859.

(iii) A plan described in clause (ii) that also meets additional requirements established by the State.

(C) The characteristics of individuals enrolled in such specialized MA plans.

(D) As practicable, the following with respect to State programs for the delivery of long term services and supports under such title XIX through a managed care program:

(E) As, practicable, how the availability and variation of integration arrangements of such specialized MA plans offered in States affects spending, service delivery options, access to community-based care, and utilization of care.

1 *recommend legislation to expedite or refine path-*
2 *ways toward fully integrated care.*

3 *(2) REPORT.—Not later than 2 years after the*
4 *date of the enactment of this Act, the Comptroller*
5 *General shall submit to Congress a report containing*
6 *the results of the study conducted under paragraph*
7 *(1), together with recommendations for such legisla-*
8 *tion and administrative action as the Comptroller*
9 *General determines appropriate.*

10 **SEC. 3. EXPANDING SUPPLEMENTAL BENEFITS TO MEET**
11 **THE NEEDS OF CHRONICALLY ILL MEDICARE**
12 **ADVANTAGE ENROLLEES.**

13 *(a) IN GENERAL.—Section 1852(a)(3) of the Social Se-*
14 *curity Act (42 U.S.C. 1395w–22(a)(3)) is amended—*

15 *(1) in subparagraph (A), by striking “Each”*
16 *and inserting “Subject to subparagraph (D), each”;*
17 *and*

18 *(2) by adding at the end the following new sub-*
19 *paragraph:*

20 “**(D) EXPANDING SUPPLEMENTAL BENEFITS**
21 **TO MEET THE NEEDS OF CHRONICALLY ILL EN-**
22 **ROLLEES.—**

23 “(i) *IN GENERAL.—For plan year 2020*

24 *and subsequent plan years, in addition to*
25 *any supplemental health care benefits other-*

1 *wise provided under this paragraph, an MA*
2 *plan, including a specialized MA plan for*
3 *special needs individuals described in sub-*
4 *section (b)(6) of section 1859, may provide*
5 *supplemental benefits described in clause*
6 *(ii) to a chronically ill enrollee (as defined*
7 *in clause (iii)).*

8 “(ii) *SUPPLEMENTAL BENEFITS DE-*
9 *SCRIBED.—*

10 “(I) *IN GENERAL.—Supplemental*
11 *benefits described in this clause are*
12 *supplemental benefits that, with respect*
13 *to a chronically ill enrollee, have a rea-*
14 *sonable expectation of improving or*
15 *maintaining the health or overall func-*
16 *tion of the chronically ill enrollee and*
17 *may not be limited to being primarily*
18 *health related benefits.*

19 “(II) *AUTHORITY TO WAIVE UNI-*
20 *FORMITY REQUIREMENTS.—The Sec-*
21 *retary may, with respect to supple-*
22 *mental benefits provided to a chron-*
23 *ically ill enrollee under this subpara-*
24 *graph, waive the uniformity require-*

8 “(I) has one or more comorbid
9 and medically complex chronic condi-
10 tions that is life threatening or signifi-
11 cantly limits the overall health or func-
12 tion of the enrollee;

“(II) has a high risk of hospitalization or other adverse health outcomes; or

“(III) requires intensive care co-
ordination.”.

18 (b) GAO STUDY AND REPORT.—

19 (1) STUDY.—The Comptroller General of the
20 United States (in this subsection referred to as the
21 “Comptroller General”) shall conduct a study on sup-
22 plemental benefits provided to enrollees in Medicare
23 Advantage plans under part C of title XVIII of the
24 Social Security Act, including specialized MA plans
25 for special needs individuals described in section

1 1859(b)(6) of such Act (42 U.S.C. 1395w-28(b)(6)).
2 Such study shall be conducted in consultation with
3 the Centers for Medicare & Medicaid Services and
4 Medicare Advantage plans as necessary and, to the
5 extent data is available, shall include an analysis of
6 the following:

7 (A) The type of supplemental benefits pro-
8 vided to such enrollees, the total number of en-
9 rollees receiving each supplemental benefit, and
10 whether the supplemental benefit is covered by
11 the standard benchmark cost of the benefit or
12 with an additional premium.

13 (B) The frequency in which supplemental
14 benefits are utilized by such enrollees.

15 (C) The impact supplemental benefits have
16 on—

17 (i) indicators of the quality of care re-
18 ceived by such enrollees, including overall
19 health and function of the enrollees;
20 (ii) the utilization of items and serv-
21 ices for which benefits are available under
22 the original Medicare fee-for-service pro-
23 gram option under parts A and B of such
24 title XVIII by such enrollees; and

1 (iii) the amount of the bids submitted
2 by Medicare Advantage Organizations for
3 Medicare Advantage plans under such part
4 C.

5 (2) REPORT.—Not later than 5 years after the
6 date of the enactment of this Act, the Comptroller
7 General shall submit to Congress a report containing
8 the results of the study conducted under paragraph
9 (1), together with recommendations for such legisla-
10 tion and administrative action as the Comptroller
11 General determines appropriate.

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